

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 19856 OF 2005

DATED: 09.09.2005

Between:

Jagdish Prasad Malpani

... PETITIONER

AND

The Government of Andhra Pradesh, Rep. By its Principal Secretary, Revenue Department, Secretariat, Hyderabad. and others

... RESPONDENTS

ORDER:

The Mandal Revenue Officer, Moinabad, 4th respondent, initiated proceedings against the petitioners under the provisions of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). Even while the proceedings were pending, an order, dated 09.03.2002, was passed holding that the purchase of the lands in question by the petitioners was contrary to the provisions of the Act and directed resumption of the same to the Government. Aggrieved thereby, the petitioners filed W.P.No.3835 of 2003 before this Court. Ultimately, the petitioners have withdrawn the same on 19.08.2004 with a liberty to avail the remedy of appeal under Section 4-A of the Act. The petitioners claim that they have preferred the appeal together with an application for stay, before the 3rd respondent, against the order, dated 09.03.2002, passed by the 4th respondent. Their grievance is that the 3rd respondent has neither disposed of the appeal nor passed any orders on the application for stay. They apprehend dispossession from the land, in the meanwhile.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

The petitioners availed the remedy of appeal against the order passed by the 4th respondent under Section 3 of the Act. It is true that the 4th respondent held that the purchase of the lands in question by the petitioners is contrary to the provisions of the Act. However, such a finding is subject to the outcome of the appeal. It is settled principle of law that an appeal provided for under a Statute is continuation of the original proceedings and except where the extraordinary circumstances exist, the state of affairs obtaining during the pendency of the original proceedings needs to be continued, during the pendency of the appeal

also. It is not in dispute that the petitioners are in possession of the lands, since their purchase in the year 1989. If the petitioners are dispossessed from the lands, even while the appeal is pending, nothing remains to be decided in the appeal. The petitioners claim to have made representations before the 1st respondent to consider the feasibility of alienating the land in their favour, in accordance with the prevalent provisions of law. If the 1st respondent accedes to such a request, the necessity for the petitioners to avail the remedy provided for under the Act may not survive.

For the foregoing reasons, the writ petition is disposed of, directing that till the 3rd respondent disposes of the appeal preferred by the petitioners against the order, dated 09.03.2002, passed by the 4th respondent, they shall not be dispossessed from the lands in question. The 1st respondent shall also consider the representation made by the petitioners for alienation of the land, on its own merits, and pass appropriate orders, within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs.

09.09.2005

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